UNITED STATES GOVERNMENT

Memorandum

BUREAU OF INDIAN AFFAIRS
Fairbanks Agency

TO: Niles Cesar, Alaska Regional Director

DATE: November 16, 1999

REPLY TO: Superintendent, Fairbanks Field Office

ATTN OF: Samuel S. Demientieff

SUBJECT: Birch Creek Secretarial Election

RECEIVED
BUREAU OF INDIAN AFFAIRS
NOV 2 1999
TRIBAL GOVERNMENT SERVICES
JUNEAU AREA OFFICE

The Birch Creek Secretarial Election was completed and the Certificate of Results of Election were submitted to Hilda Manuel, Deputy Commissioner of Indian Affairs on October 5, 1999.The Certificate of Results of Election was returned for resubmission on the Certificate of Results of Election form supplied with the Secretarial Election authorization. Please find attached copies of the letter to Hilda Manuel, Deputy Commissioner of Indian Affairs concerning the Secretarial Election for Birch Creek, the letter from Hilda Manuel, Deputy Commissioner of Indian Affairs to Niles Cesar, Area Director, Juneau Area Office authorizing the Secretarial Election, the Constitution of the Birch Creek Tribe and Certificate of Results of Election.

Sincerely,

Samuel S. Demientieff
Superintendent

SSD:ey

attachments

IN REPLY REFER TO:

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

Fairbanks Field Office
101 12th Avenue, Unit 16
Fairbanks, Alaska 99701-6270

November 12, 1999

COPY

Bureau of Indian Affairs
Hilda Manuel , Deputy Commissioner of Indian Affairs
1849 C Street NW
MS-4140-MIB
Washington, D.C. 20240

Dear Ms. Manuel:

A Secretarial Election was authorized for the adoption of a constitution for the Birch Creek Tribe. The letter of authorization and attachments are enclosed. Please find enclosed the Certificate of Results of Election and Certificate of Approval pursuant to 25 CFR Part 81.

Sincerely,

Samuel S. Demientieff
Superintendent

SSD: ey

COPY

cc: Tanana Chiefs Conference, Inc.
Juneau Regional Office

COPY

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240

JUN 23 1999

IN REPLY REFER TO:

Tribal Government Services - TR

RECEIVED
BUREAU OF INDIAN AFFAIRS

JUN 29 1999

TRIBAL GOVERNMENT SERVICES
JUNEAU AREA OFFICE

Niles Caesar, Area Director
Juneau Area Office
Bureau of Indian Affairs
P. O. Box 25520
Juneau, Alaska 99802

Dear Mr. Caesar:

We completed our technical review of the proposed revised Constitution of the Birch Creek Tribe. The proposed document was accompanied by Resolution # 96-1, enacted by the Birch Creek Tribal Council (Tribe) on June 25, 1996, requesting that the Secretary of the Interior (Secretary) call and conduct an election to permit the qualified voters of the Tribe to vote on the adoption or rejection of the proposed document. On October 9, 1998, we issued our technical comments to the Tribal Council for consideration.

These changes were accepted by the Tribe and by letter dated February 16, 1999, the Chief through the Tanana Chiefs Conference, Inc., again requested a Secretarial Election.

You are hereby authorized to call and conduct the requested election on the enclosed proposed Constitution. Voting on the proposed document will be in accordance with Title 25 of the Code of Federal Regulations, Part 81 (25 CFR Part 81). If no action is taken on this authorization within 90 days from the date of issuance, it will be considered void.

Section 81.8 provides for an election board composed of the Superintendent, Administrative Officer, or other official of the local unit of the Bureau of Indian Affairs (BIA) serving as Chairman and representatives of the Tribe to be responsible for the supervision and conduct of the election. The election board must comply with 25 CFR §§ 81.11, 81.12, 81.13 and 81.14 regarding the notification of tribal members of the election and their need to register to participate, as well as, the development and posting of a list of those individuals who registered and respective deadlines. The registration list must be posted at least 20 days prior to the election; this does not include the date of posting nor election day.

The date of the election shall be set by the Election Board Chairman in cooperation with tribal representatives. The election will not be held less than 30 days nor more than 60 days from the date the election notice is posted.

Once the election is completed, please forward the original proposed Constitution, the original completed certificate of results of election, the eligible voters list, the voter's packet, a copy of the ballot, and any challenges to the election results filed in accordance with 25 CFR § 81.22 to the Division of Tribal Government Services for appropriate action. Please note that challenges to the election results must be decided before the Secretary can take action on the proposed document.

The Secretary or his authorized representative has only 45 days from the date of election to either approve or disapprove the proposed Constitution. The proposed Constitution will become effective on the date it is approved by the Secretary or his authorized representative, or on the 46th day after the election if the Secretary does not act (25 U.S.C. § 476(d)).

Once an authorization has been granted by the Secretary, no modifications, corrections, deletions or retyping of the authorized version of the proposed Constitution or the certificate of results of election can be made by the Area or Agency Office. Should modifications be necessary or if you have any questions, please contact Ralph Gonzales, Tribal Relations Specialist, telephone (202) 208-4401.

Sincerely,

Hilda A. Manuel

Deputy Commissioner of Indian Affairs

Enclosure

IRA CONSTITUTION OF THE BIRCH CREEK TRIBE

Birch Creek, Alaska

PREAMBLE

We, the Birch Creek Tribe, a Gwich'in Band within the Athabascan Nation, assert our freedom as sovereign people in a historic relationship with the United States of America in creating this Tribal Constitution. We adopt this Constitution to exercise the Tribe's inherent sovereign rights and powers in promoting the well-being and unity of this and succeeding generations, to affirm our faith in fundamental Native rights and traditions, and to promote our Tribe's social, cultural, economic, and political progress. We adopt this Constitution under the authority of the Indian Reorganization Act (IRA) of June 18 1934 (48 Stat. 984), as amended. This Constitution shall supersede the previously adopted Traditional Constitution of the Dendu Tribe, Birch Creek, Alaska adopted May 14, 1993.

ARTICLE 2 – TERRITORY

The territorial jurisdiction of the Birch Creek Tribe shall extend to such Indian country, as defined by federal law, as may exist under Birch Creek's jurisdiction.

ARTICLE 3 - MEMBERSHIP

Section 1. Base Membership Roll. The base membership of the Birch Creek Tribe shall consist of all Alaska Natives whose names appear on the base membership roll adopted by the Birch Creek Tribal Council at the passage of the Traditional Constitution of the Dendu Tribe on May 14, 1993, and approved as final on June 25th 1996.

Section 2. Descendants of Members. Lineal descendants of Birch Creek tribal members

are automatically eligible to be members of the Birch Creek Tribe, subject to provisions of this Constitution and to ordinances enacted pursuant to this Constitution. All eligible individuals over 18 years of age who are not already enrolled to the Tribe shall formally apply. For jurisdictional purposes of the Birch Creek Tribe, descendant children of Birch Creek tribal members under the age of 18 shall be members of the Tribe by virtue of their eligibility to be members. This provision shall not disqualify parents or guardians of minor children from formally applying for membership on behalf of eligible minor children, but should the parents or guardians not apply, minor children shall be considered tribal members.

Section 3. Adoption of Members. The Tribal Council shall have the option to adopt Alaska Natives who move into Birch Creek, who are not descendants of members listed on the base roll, according to the provisions of an enrollment ordinance.

Section 4. Membership and Enrollment Ordinances. The Tribal Council shall have the power to enact ordinances and resolutions, not inconsistent with this Constitution, prescribing rules and regulations governing membership, including application and appeal procedures, maintenance of the membership roll, loss of membership, relinquishment of membership, and adoption of members.

ARTICLE 4 - GOVERNING BODY

Section 1. Name. The governing body of the Birch Creek Tribe shall be the 'Birch Creek Tribal Council,' also referred to as the 'Council' or 'Tribal Council' in this Constitution. The Council shall represent the Tribe and shall exercise the powers of the Tribe cited in this Constitution.

Section 2. Composition. The Birch Creek Tribal Council shall consist of five (5) members who shall be elected by the tribal voters casting their ballots in such an election.

Section 3. Officers. The Council shall include a First Chief, Second Chief, and a Secretary/Treasurer. Council members shall elect officers among themselves.

Section 4. Qualifications for Tribal Council Office. Tribal members who are 18 years of age or older and currently reside in the Village of Birch Creek are eligible to hold a position on the Tribal Council.

Section 5. Quorum. Three (3) Tribal Council members shall constitute a quorum for the transaction of business at any meeting of the Tribal Council, unless otherwise specified by this Constitution or by tribal ordinance.

Section 6. Terms of Office. All Tribal Council members shall hold office for a term of two (2) years, provided that shorter terms may be used to begin or restore the staggering of terms.

Section 7. Voting Powers. All Tribal Council members shall be entitled to vote on Council business, except in cases of conflict of interest.

Section 8. Conflict of Interest. No Council member shall vote on any matter, including but not limited to employment contracts, project funding, project allocations, and appointments to tribal committees, in which he or she has a direct significant personal interest. A personal interest includes involvement of his or her spouse or children. Council members present when such an issue is decided shall reveal such conflicts prior to any vote. Persons who violate this Section may be subject to removal under Article 7 Section 1 of this Constitution.

ARTICLE 5 - DUTIES OF OFFICERS

Section 1. Assuming Duties. Newly elected officers shall assume their duties immediately after the election has been certified by the Election Committee.

Section 2. First Chief. The First Chief shall preside over meetings of the Council and of the Tribe. The First Chief shall provide general supervision for the affairs of the Tribal Council. The First Chief shall sign, with either the Second Chief or Secretary/Treasurer, all contracts, leases and other documents approved by a quorum of the Council. When the Council is not in session, he or she shall be the official representative of the Tribe.

Section 3. Second Chief. The Second Chief shall assist the First Chief when called upon to do so. In absence of the First Chief, the duties of the Second Chief shall be the same as those of the First Chief.

Section 4. Secretary/Treasurer. The Secretary/Treasurer shall preside at tribal meetings in the absence of the First and Second Chiefs. The Secretary/Treasurer shall take or the Council shall delegate the taking of minutes of all meetings. The Secretary/Treasurer shall issue or the Council shall delegate the duty of issuing notices of all meetings and elections. The Secretary/Treasurer shall carry out the financial directives of the Council, receive all monies and keep accurate account of the receipts and disbursements, except when these duties are otherwise delegated by the Council. The Secretary/Treasurer shall give a financial report as requested by the Council. Upon vacating his or her office, the Secretary/Treasurer shall immediately turn over all the records and papers in his or her possession to his or her successor or to the Council.

ARTICLE 6 - MEETINGS

Section 1. Regular Meetings of the Tribal Council. Regular meetings of the Council shall be held monthly: time, place, and date to be designated by the Council. Notice of meetings shall be posted prior to meetings in public places in Birch Creek. All regular

meetings shall be open to the general tribal membership.

Section 2. Special Meetings. A quorum of the Council or the Chief may call a special meeting upon giving at least twenty-four (24) hours notice to tribal members. Notice shall be posted in public places in the Village.

Section 3. Emergency Meetings. The Council may meet for an emergency meeting without notice only when emergency circumstances warrant such a meeting.

Section 4. Executive Session. The Tribal Council may move to meet in a closed executive session during regular, special, or emergency meetings of the Tribal Council when the subject matter concerns child welfare, personnel, tribal enrollment, choice of Tribal Council officers, litigation, and other matters made confidential by tribal ordinance.

Section 5. Tribal Membership Meetings.

A. Tribal membership meetings may be called by the First Chief or by a quorum of Tribal Council members.

B. Tribal membership meetings may also be held by assembling a quorum of 50 percent of the adult resident tribal members.

C. Notice for any tribal membership meetings shall be posted in public places in Birch Creek prior to any such meetings.

D. A quorum for tribal membership meetings shall be 50 percent of the adult resident tribal membership.

ARTICLE 7 - REMOVAL, RECALL, FORFEITURE, AND VACANCIES

Section 1. Removal. Council members found guilty by the Tribal Council of neglect of duty, gross misconduct in office, or an offense involving dishonesty shall be removed from office by an affirmative vote of at least four (4) Tribal Council members, provided, that such member shall first be given ten (10) days notice in writing of the charges against him or her and be given an opportunity to answer such charges before the Tribal Council. If the person subject to removal fails to appear before the Council, the Council shall proceed with the vote as scheduled. No member of the Tribal Council shall preside over the meeting at which his or her removal is being considered. All questions of removal under this Section shall be resolved by the Tribal Council and the decision of the Tribal Council shall be final. If a person is removed from the Tribal Council, the position shall be considered vacant and filled according to the provisions of Section 4 of this Article.

Section 2. Recall. Members of the Tribal Council may be recalled by the tribal voters through a petition and election process. A valid petition requesting such recall, signed by at least 50 percent of the eligible tribal voters residing in Birch Creek shall be presented to the Tribal Council. The Tribal Council shall call a special election to vote on the recall of the named Tribal Council member within thirty (30) days upon receiving the petition, in accordance with Article 8, Section 4. If the majority of the voters vote in favor of the recall, the official shall be removed and the seat declared vacant. No official may be subjected to recall proceedings for the same offense more than once in the course of his or her term. If the Council fails to call a special election to consider the recall, the tribal membership may hold a tribal membership meeting and appoint an election committee to conduct the recall election according to the provisions of Article 6, Section 5(B).

Section 3. Forfeiture. Any member of the Tribal Council who submits a written resignation, is convicted of a felony while in office, or is absent from three successive regular meetings of the Tribal Council without being excused by the Council shall automatically forfeit his or her office and the position declared vacant.

Section 4. Vacancies. Any vacancies on the Tribal Council, including officer positions shall be filled by appointment by the remaining members of the Tribal Council. A Tribal Council member appointed to fill a vacancy shall serve for the unexpired portion of the term of his or her predecessor. In the event that there are less than three council members, a tribal membership meeting shall be held to elect a temporary council until the next regular election.

ARTICLE 8 - ELECTIONS

Section 1. Tribal Voter Qualifications. The qualifications for voting in Birch Creek tribal elections shall be members who are enrolled to the Birch Creek Tribe and who are 18 years of age or older. For elections for tribal council positions, tribal voters shall be physically present in the village on the day of the election to be eligible to vote, except for Birch Creek tribal member residents of Birch Creek who submit a valid absentee ballot. For all other elections, the Council shall decide if voters shall be physically present to be eligible to vote.

Section 2. General Guidelines for Elections. All elections shall be conducted by secret balloting. The outcome of an election for tribal council seats shall be determined by the candidates receiving the highest number of votes. All other elections shall be determined by a simple majority of the eligible tribal voters casting their votes during the election unless otherwise specified by this Constitution or by tribal ordinance.

Section 3. Tribal Council Elections. Elections for Tribal Council positions shall be held in Birch Creek. The Tribal Council shall set the date and shall give at least two (2) weeks notice of such elections. Notice shall be posted in public places in Birch Creek prior to such elections.

Section 4. Special Elections. Special elections may be held either by voters who are

physically present at a tribal membership meeting where a quorum is established or by the use of absentee and mail-out ballots to tribal voters. The Council shall determine which method is to be used, unless a specific method is called for by this Constitution or by tribal ordinance. The Council may, by resolution call a special election for the purposes of deciding a referendum, initiative, or recall, upon giving at least two (2) weeks notice to the resident tribal members. Notice shall be posted in at least three (3) public places. If mail-out ballots are used, they shall be mailed to tribal voters at least one month prior to the election.

Section 5. Election Committee. The Council shall appoint an election committee of at least two members to supervise, administer, and conduct all tribal elections. The election committee shall certify the election of tribal officials. For elections where members are being elected to the Tribal Council, no member of the election committee shall at the same time be a member of the Council or a candidate for a position on the Council

Section 6. Election Ordinance. An election ordinance, consistent with this Constitution, may be adopted by the Council to set forth the procedures to be followed in conducting each of the various types of elections called for in this Constitution.

ARTICLE 9 - POWERS OF BIRCH CREEK TRIBAL COUNCIL

Section 1. General Powers. Except as specifically limited by this Constitution or by tribal ordinance, the powers of the Tribe shall be exercised by the Council and shall include all the inherent powers of a federally recognized tribal government, including but not limited to, those specified in this Article that do not violate federal law.

Section 2. Internal Procedures. Consistent with this Constitution, the Council may enact ordinances to govern its internal procedures and organization and to further define the duties of tribal officers.

Section 3. Tribal Council Powers. Subject to the limitations imposed by this Constitution, tribal ordinance, and federal law, the Tribal Council shall exercise the following powers:

A. To consult, negotiate, contract, or conclude agreements with and make recommendations to Federal, state, local, and tribal governments on activities which may affect the Birch Creek Tribe.

B. To promote and protect the peace, health, education, and general welfare of the members of the Tribe, and to administer services that contribute to the social and economic development of the Tribe and its members.

C. To levy and collect taxes, fees, and assessments for Tribal purposes.

D. To encourage, guard, and foster traditional cultural practices of the Birch Creek people, including the arts, crafts, religion, language, and customs of the Native people of Birch Creek.

E. To prevent the sale, disposition, lease, or encumbrance of tribal lands, interests in lands, or other tribal assets without the consent of the Birch Creek Tribe.

F. Except as limited by Article 10 of this Constitution, to manage, sell, lease, exchange, acquire, or otherwise deal with tribal or other property.

G. To acquire property and accept gifts.

H. To administer tribal assets, including funds, and to manage all economic affairs and enterprises of the Tribe.

I. To engage in tribal economic development enterprises for the benefit of tribal members.

J. To provide for the maintenance of law and order and the administration of justice, including the establishment of appropriate tribal courts or other judicial bodies.

K. To charter enterprises, corporations, and associations for the benefit of tribal members.

L. To enact ordinances consistent with this Constitution for the conduct and administration of all tribal functions.

M. To regulate inheritance among members whether by intestacy or otherwise.

N. To administer any funds within the control of the Tribe.

O. To regulate child custody and other domestic relations among members.

P. To protect and preserve the wildlife and natural resources within the area under the jurisdiction of the Tribe, or upon which its members rely for subsistence.

Q. To regulate and control the use of natural resources within those areas under the jurisdiction of the Tribe, or which otherwise affect the health, safety, or economic well being of the Tribe or its members.

R. To employ legal counsel, the choice of counsel, and fixing of fees.

S. To join and/or charter housing authorities.

T. To protect members' rights in personal property.

U. To zone, exercise the power of eminent domain, and otherwise regulate all land use within those areas under the jurisdiction of the Tribe.

V. To enact ordinances, procedures, and regulations necessary to give effect to any provision of this Constitution and to exercise any power not prohibited by federal law.

Section 4. Omissions. Any rights and powers vested in the Birch Creek Tribe but not expressly referred to in this Constitution shall not be lost by reason of their omission, but may be exercised by the Council unless expressly prohibited by this Constitution.

ARTICLE 10 - POWERS RESERVED TO MEMBERSHIP

Section 1. Tribal Lands. The following powers are specifically reserved to the eligible tribal voters of the Birch Creek Tribe acting through a general tribal membership meeting where a quorum is established, or a properly called election:

A. No lands or interests in lands owned by the Tribe may be sold, leased, encumbered, or disposed of without an affirmative vote of at least a majority of the adult tribal voters at an election held in Birch Creek with ballots provided to those adult tribal members who reside outside the Village.

B. Nothing in this Article shall prohibit the Tribal Council from establishing and administering a tribal land assignment program as established by ordinance.

ARTICLE 11 - POPULAR PARTICIPATION IN GOVERNMENT

Section 1. Initiative. The eligible tribal voters of the Tribe shall have the right to propose and repeal ordinances and resolutions not inconsistent with this Constitution, through a valid petition signed by at least 50 percent of the eligible tribal voters residing in Birch Creek. The petitions shall be submitted to the Tribal Council and validated by the Council. The Council shall then call an election under the provisions of Article 8 of this Constitution to be conducted by the election committee no later than sixty (60) days after receipt of the petition. If the Council fails to act on the petition, the ordinance or resolution may be brought before a tribal membership meeting. An affirmative vote by a majority of eligible tribal voters at a tribal membership meeting where a quorum has been established and an election committee has been selected among the attendees, shall be required to adopt or repeal such ordinances or resolutions.

Section 2. Referendum. The Council, by an affirmative vote of at least three (3) of its members, may refer issues to the tribal membership in a tribal election. Such an election shall be conducted by the election committee within sixty (60) days of such Council decision. The Council shall conduct such an election under the provisions of Article 8, Section 4 of this Constitution.

Section 3. Initiative and Referendum Decisions. The decision of the voters in both initiative and referendum elections shall be binding on the Council and the Tribe and shall remain in full force until amended or rescinded by subsequent action of the voters or expires by its own terms.

ARTICLE 12 - RIGHTS OF MEMBERS

Section 1. Access to Tribal Records. Tribal members shall have the right to review all tribal records, including financial records, during tribal council office hours in accordance with procedures established by the Tribal Council except in child welfare cases, tribal enrollment records, litigation, personnel, and confidential issues.

Section 2. Open Tribal Council Meetings. Tribal members have the right to be present at all Council meetings except during executive session of the Council.

Section 3. Indian Civil Rights. The Tribe shall provide to all persons within its jurisdiction the rights guaranteed by the Indian Civil Rights Act of 1968, as amended. In summary, the tribal government shall:

A. Not prohibit the free exercise of speech, press, religion, or rights of the people to assemble peacefully or file grievances against the tribal government.

B. Not allow unreasonable search and seizure or issue search warrants without probable cause.

C. Not try anyone for the same offense twice.

D. Not make any person testify against himself in a criminal matter.

E. Not take private property for public use without paying the owner the fair market value.

F. Not deny a person the right to a speedy public trial. A speedy trial is generally assumed to be a trial within 90 days or less. The accused person must be informed of the nature of the crime he is accused of, told about the witnesses against him, be allowed to have witnesses testify in his favor, and be allowed a lawyer at his own expense.

G. Not impose excessive bail or fines, nor impose cruel or unusual punishments. Tribal courts cannot impose a penalty greater than $5,000 or one (1) year in jail, or both for any one offense.

H. Give all persons equal protection under tribal laws.

I. Not pronounce anyone guilty of a crime or civil violation without a fair trial. The tribal government shall not pass an ordinance and charge a person with a violation of that ordinance or change penalties after an incident (Ex Post Facto).

J. Provide anyone accused of an offense punishable by jail time the right to a trial by jury of no less than six persons.

ARTICLE 13 – WAIVERS OF TRIBAL IMMUNITIES

Nothing in this Constitution shall be deemed, interpreted or construed to be a waiver of any immunity from suit or execution against tribal property that the Birch Creek Tribe possesses under tribal, state or federal law, provided however, that persons subject to the jurisdiction of the Tribe may bring claims against the tribe in the Birch Creek Tribal Court, arising under the terms of the Indian Civil Right Act, 25 U.S.C. § 1301, as amended. When suit is brought in the Birch Creek Tribal Court to protect Indian Civil Rights the sovereign immunity of the Birch Creek Tribe is hereby waived in the Court or the Tribe for the limited purpose of providing declaratory and injunctive relief, where appropriate under the law and facts as asserted to protect those rights; provided, the immunity of the Tribe is not waived with regard to damages, court costs, or attorneys fees.

The Council may enact resolutions to waive any immunity from suit or execution subject to the terms of this section. A resolution waiving any immunity from suit or execution shall be passed by an affirmative vote of at least four (4) Council members, and evidenced by a written document contemporaneously signed by Council members voting in favor of passage. Any resolution waiving any immunity from suit for claims by a non-governmental entity over $50,000 in value, or claim by any entity seeking execution against tribal lands shall be approved by an affirmative vote of 51% of the tribal members 18 years of age and

older. The Council shall not enact any waiver of immunity for claims by a governmental entity, except for the purposes of satisfying the conditions or requirements of a grant, contract or compact, which are generally applicable.

Waivers of immunity shall not be general, but must specify the parties who may bring an action against the tribe, duration for bringing a cause of action, the amount of funds or other property upon which execution may be had, the nature of the transaction giving rise to claims, and any other limitations deemed appropriate by the Council. Upon adoption of this Constitution, all prior waivers of immunity to suit or execution of the Birch Creek Tribe shall be void, unless claims arising under such waivers are brought within two years of adoption of this Constitution or such waivers comply with this section. This section shall be strictly construed and ambiguities as to the terms of any waiver shall be construed in favor of finding immunity of the tribe.

ARTICLE 14 - AMENDMENTS

Section 1. Amendments by the Tribe. This Constitution may be amended by a majority vote of the eligible tribal voters of the Birch Creek Tribe voting in an election called for that purpose by the Secretary of the Interior or his authorized representative, provided that at least 30 percent of those entitled to vote shall vote in such an election. No amendment shall become effective until approved by the Secretary of the Interior or his authorized representative.

Section 2. Secretarial Election. It shall be the duty of the Secretary of the Interior to call an election on any proposed amendments at the request of the Council or upon receipt of a petition signed by at least 30 percent of the eligible tribal voters of the Birch Creek Tribe.

ARTICLE 15 - SEVERABILITY

If any provision of this Constitution shall, in the future, be declared invalid by a court of competent jurisdiction, the invalid provision shall be severed and the remaining provisions shall continue in full force and effect.

ARTICLE 16 - SAVINGS

Unless inconsistent with this Constitution, all tribal legislation enacted prior to adoption of this Constitution shall remain in effect.

ARTICLE 17 - ADOPTION

This Constitution, when adopted by a majority vote of the eligible tribal voters of the Birch Creek Tribe voting at an election called by the Secretary of the Interior or his authorized representative, in which at least 30 percent of those entitled to vote do so, shall be submitted to the Secretary of the Interior for his approval, and shall be effective from the date of his approval.

CERTIFICATE OF RESULTS OF ELECTIONS

Pursuant to an order issued by Hilda A. Manuel, Deputy Commissioner of Indian Affairs, on June 23, 1999, the foregoing Constitution of the Birch Creek Tribe, a Gwich'in Band within the Athabascan Nation was submitted to the qualified voters of the Birch Creek Tribe, Community and on September 15, 1999, was duly adopted/rejected by a vote of 19 for, and 0 against, and 0 cast ballots found separated or mutilated, in an election in which at least 30 percent of the 28 (number) members entitled to vote, cast their ballots in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended.

Certificate of Results of Election

Pursuant to a Secretarial election authorized by the Deputy Commissioner of Indian Affairs on June 23, 1999, the attached Constitution and Bylaws of the Birch Creek Tribe was submitted to the qualified voters of the the tribe and on September 15, 1999, was duly adopted by a vote of 19 for and 0 against and 0 cast ballots found spoiled or mutilated in an election in which at least 30 percent of the 28 members entitled to vote, cast their ballot in accordance with 25 CFR 81.

Signed:

9-15-99
Chairman, Election Board

9/15/99
Election Board Member

9/15/99
Election Board Member